

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**

**BASIM IBRAHIM ELHABASHY, M.D. )**

**Physician's and Surgeon's )  
Certificate No. A 86983 )**

**Respondent )**

**Case No. 16-2012-224806**

**DECISION**

**The attached Stipulated Surrender of License is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 20, 2013.**

**IT IS SO ORDERED November 13, 2013.**

**MEDICAL BOARD OF CALIFORNIA**

**By:**

  
\_\_\_\_\_  
**Kimberly Kirchmeyer,  
Interim Executive Director**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 MACHAELA M. MINGARDI  
Deputy Attorney General  
4 State Bar No. 194400  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 16-2012-224806

11 **BASIM IBRAHIM ELHABASHY, M.D.**  
12 **1501 SW 4<sup>th</sup> Avenue**  
13 **Boca Raton, FL 33432**

**STIPULATED SURRENDER OF  
LICENSE**

14 **Physician's and Surgeon's Certificate**  
15 **No. A 86983**

16  
17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Officer of the Medical  
23 Board of California. She brought this action solely in her official capacity and is represented in  
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Machaela M.  
25 Mingardi, Deputy Attorney General.

26 2. On or about May 5, 2004, the Medical Board of California issued Physician's and  
27 Surgeon's Certificate Number A 86983 to Basim Ibrahim Elhabashy, M.D. (Respondent). The  
28 certificate is renewed and current with an expiration date of July 31, 2015.

1           3.     Respondent has chosen not to exercise his right to be represented by counsel and is  
2 representing himself in this proceeding.

3                                   JURISDICTION

4           4.     Accusation No. 16-2012-224806 was filed before the Medical Board of California  
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The  
6 Accusation and all other statutorily required documents were properly served on Respondent on  
7 February 28, 2013. A copy of Accusation No. 16-2012-224806 is attached as Exhibit A and  
8 incorporated by reference.

9                                   ADVISEMENT AND WAIVERS

10          5.     Respondent, has carefully read and understands the charges and allegations in  
11 Accusation No. 16-2012-224806. Respondent also has carefully read and understands the effects  
12 of this Stipulated Surrender of License and Order.

13          6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
17 the attendance of witnesses and the production of documents; the right to reconsideration and  
18 court review of an adverse decision; and all other rights accorded by the California  
19 Administrative Procedure Act and other applicable laws.

20          7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22                                   CULPABILITY

23          8.     Respondent agrees that based on the action taken by the State of Florida Board of  
24 Medicine as alleged in the Accusation, cause exists for discipline. Respondent lives and works in  
25 the State of Florida and chooses to hereby surrender his Physician's and Surgeon's Certificate No.  
26 A 86983 for the Board's formal acceptance in order to resolve this matter.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 86983, issued to Respondent Basim Ibrahim Elhabashy, M.D., is surrendered and accepted by the Medical Board of California.

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

2. On or before the effective date of the Decision and Order, Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must

1 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
2 effect at the time the petition is filed, and all of the charges and allegations contained in  
3 Accusation No. 16-2012-224806 shall be deemed to be true, correct and admitted by Respondent  
4 when the Board determines whether to grant or deny the petition.

5 4. If Respondent should ever apply or reapply for a new license or certification, or  
6 petition for reinstatement of a license, by any other health care licensing agency in the State of  
7 California, all of the charges and allegations contained in Accusation No. 16-2012-224806 shall  
8 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
9 Issues or any other proceeding seeking to deny or restrict licensure.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Surrender of License. I enter into it freely and  
12 voluntarily and with full knowledge of its force and effect do hereby surrender the Physician's  
13 and Surgeon's Certificate Number A 86983 for Basim Ibrahim Elhabashy, M.D., to the Medical  
14 Board of California, for its formal acceptance. By signing this stipulation to surrender  
15 Respondent's license, I recognize that upon its formal acceptance by the Board, Respondent will  
16 lose all rights and privileges to practice as a physician and surgeon in the State of California and I  
17 also will cause to be delivered to the Board any license and wallet certificate in my possession  
18 before the effective date of the decision.

19  
20 DATED: 08-30-13

21   
22 BASIM IBRAHIM ELHABASHY  
23  
24  
25

26 //

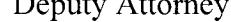
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Dated: 10/1/2013

KAMALA D. HARRIS  
Attorney General of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General

  
MACHAELA M. MINGARDI  
Deputy Attorney General  
*Attorneys for Complainant*

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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO February 28, 2013  
BY [Signature] ANALYST

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 16-2012-224806

**BASIM IBRAHIM ELHABASHY, M.D.**  
1501 SW 4th Avenue  
Boca Raton, FL 33432

ACCUSATION

Physician's and Surgeon's Certificate  
No. A 86983

Respondent.

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about May 5, 2004, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 86983 to Basim Ibrahim Elhabashy, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein. The certificate is renewed and current with an expiration date of July 31, 2013.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board),<sup>1</sup> Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act], shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a

<sup>1</sup> The term "board" means the Medical Board of California. "Division of Medical Quality" shall also be deemed to refer to the Medical Board. (Bus. & Prof. Code, § 2002.)



1 disciplinary action taken against the licensee by another state, an agency of the federal  
2 government, or another country."

### 3 FIRST CAUSE FOR DISCIPLINE

4 (Discipline, Restriction, or Limitation Imposed by Another State and Unprofessional Conduct)

5 7. On or about December 10, 2012, the State of Florida Board of Medicine ("Florida  
6 Board") issued a Final Order whereby Respondent was reprimanded; placed on probation for one  
7 year; ordered to complete courses in "Prescribing Controlled Drugs: Critical Issues and Common  
8 Pitfalls of Misprescribing" and "Quality Medical Record Keeping for Health Care Professionals;"  
9 ordered to relinquish his Schedule II controlled substances registration with the DEA for at least  
10 one year; ordered that Respondent shall practice only under the indirect supervision of an  
11 approved physician and that if he practices other than anesthesiology and addiction medicine, he  
12 shall have an approved monitor; prohibited Respondent from prescribing Schedule II controlled  
13 substances unless or until Respondent demonstrates satisfactory completion of a risk management  
14 review; permitted Respondent to prescribe Schedule III, IV, and V controlled substances only in  
15 compliance with limitations set forth in the Final Order; prohibited Respondent from practicing  
16 at, operating, managing, or owning any pain management clinics in the State of Florida; and,  
17 ordered that Respondent pay a fine in the amount of \$15,000 and reimburse costs incurred in the  
18 investigation and prosecution of the case.

19 8. The Florida Board's action was based on, but not limited to, allegations that  
20 Respondent failed to obtain complete medical histories for patients; failed to conduct adequate  
21 physical examinations or meaningful medical evaluations; failed to set forth adequate treatment  
22 plans for patients; failed to refer patients for evaluations or consultations with specialists; failed to  
23 perform periodic reviews of the treatment of patients; failed to adequately monitor patients for  
24 diversion or substance abuse; and, prescribed excessive or inappropriate quantities and doses of  
25 controlled substances to patients. Attached hereto as Exhibit A and incorporated herein, as if  
26 fully set forth, is a true and correct copy of the Final Order issued by the State of Florida Board of  
27 Medicine.

28 ///

9. Respondent's conduct and the action of the Florida Board regarding Respondent's license to practice medicine, as set forth above, constitutes cause for disciplinary action and/or unprofessional conduct within the meaning of sections 141 and/or 2305 of the Code. Therefore, cause for discipline exists.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 86983,  
issued to Respondent Basim Ibrahim Elhabashy, M.D.;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants pursuant to section 3527 of the Code;

3. Ordering Respondent to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and,

4. Taking such other and further action as deemed necessary and proper.

DATED: February 28, 2013

LINDA K. WHITNEY  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

Exhibit A: Final Order of the State of Florida Board of Medicine

SF2013403700  
accusation.rtf

# **EXHIBIT A**

Final Order No. DOH-12-2619- 5 -MQA  
FILED DATE - 12-10-12  
Department of Health  
By: Amy L. Canaway  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2011-17168  
LICENSE NO.: ME0094356

BASIM IBRAHIM ELHABASHY, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on November 30, 2012, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

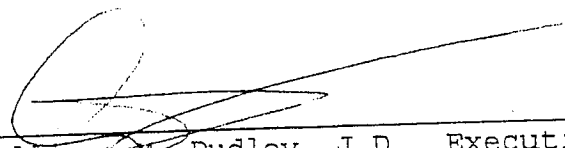
The costs set forth in Paragraph 9 of the Stipulated Disposition shall be set at \$17,690.07.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.


DONE AND ORDERED this 7th day of December, 2012.

BOARD OF MEDICINE

  
Allison M. Dudley, J.D., Executive Director  
For Jason J. Rosenberg, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to BASIM IBRAHIM ELHABASHY, M.D., 2230 West Atlantic Avenue, Delray Beach, Florida 33445; to Jerome R. Silverberg, Esquire, Lewis, Brisbols, et al., 200 SW 1<sup>st</sup> Avenue, Suite 910, Fort Lauderdale, Florida 33301; and by interoffice delivery to Sharmin Hibbert, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 10 day of December, 2012.



**Deputy Agency Clerk**

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,  
Petitioner,

v.

DOH Case No.: 2011-17168

BASIM IBRAHIM ELHABASHY, M.D.,

Respondent.

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SETTLEMENT AGREEMENT

Basim Ibrahim Elhabashy, M.D., referred to as the "Respondent," and the Department of Health, referred to as the "Department," stipulate and agree to the following Settlement Agreement and to the entry of a Final Order of the Board of Medicine, referred to as the "Board", incorporating the Stipulated Facts, Stipulated Conclusions of Law, Stipulated Disposition, and Standard Provisions in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapters 456 and 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 94356.
2. The Department charged Respondent, through an Administrative Complaint that was filed and properly served upon Respondent, with violations of Chapter 458,

Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

#### STIPULATED CONCLUSIONS OF LAW

4. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

5. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

6. Respondent agrees that the Stipulated Disposition in this case is acceptable to Respondent.

#### STIPULATED DISPOSITION

7. **Reprimand:** The Board shall reprimand the license of Respondent.

8. **Fine:** The Board of Medicine shall impose an administrative fine of fifteen thousand dollars (\$15,000.00) against the license of Respondent, to be paid by Respondent to Payments, Department of Health, Compliance Management Unit, Bln C-76, P. O. Box 6320, Tallahassee, FL 32314-6320, within sixty (60) days from the date of filing of the Final Order accepting this Settlement Agreement. All fines shall be paid by cashiers check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board. If

Respondent is unable to pay the fine within sixty (60) days, he may ask the Probation Committee for an extension or a payment plan.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 75 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

9. **Reimbursement Of Costs:** Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any costs incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. Such costs will include any costs incurred until a Final Order is entered. The agreed upon amount of Department costs to be paid in this case is currently fifteen thousand six hundred ninety dollars and seven cents (\$15,690.07), but shall not exceed seventeen thousand six hundred ninety dollars and seven cents (\$17,690.07). Respondent will pay costs to Payments, Department of Health, Compliance Management Unit, Bln C-76, P. O. Box 6320,



Tallahassee, FL 32314-6320, sixty (60) days from the date of filing of the Final Order accepting this Settlement Agreement. All costs shall be paid by cashiers check or money order. Any post-Board costs, such as the costs associated with probation, are not included in this agreement. If Respondent is unable to pay the costs within sixty (60) days, he may ask the Probation Committee for an extension or a payment plan.

**RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 75 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.**

10. **Drug Course:** Respondent shall complete the course, "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Misprescribing," sponsored by the University of Florida, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

11. **Records Course:** Respondent shall complete the course, "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical

Association, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

12. **Limitation Language:** Effective on the date of the entry of a Final Order adopting this Settlement Agreement, Respondent's license to practice medicine shall be limited as follows:

a. **Controlled Substances** - Respondent may not prescribe Schedule II Controlled Substances unless or until Respondent presents to the Board and demonstrates to the satisfaction of the Board that Respondent has completed a risk management review and has complied with the recommendations thereof.

b. **Pain Management** - Respondent may not practice at, operate, manage, or own any pain management clinics in the State of Florida.

13. **Probation Language:** Effective on the date of the entry of a Final Order adopting this Settlement Agreement, Respondent's license to practice medicine shall be placed on probation for a period of **one (1) year** (the "Probation Period"). The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the Probation Period, Respondent shall comply with the following obligations and requirements:

a. **Limitations During Probation** -- During the Probation Period, Respondent's license shall be limited as follows:

i. **Indirect Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as Respondent; however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board Certified in Respondent's specialty area unless otherwise provided by the Board. In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs, or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. **Required Supervision:**

1. Respondent shall not practice medicine, other than anesthesiology and addiction medicine, without an approved monitor, as specified by the Settlement Agreement, unless otherwise ordered by the Board.

2. The monitor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on her/his license. In addition, the Board may reject any proposed monitor on the basis that s/he has previously been subject to any disciplinary action against her/his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor must be actively engaged in the same or similar

specialty area unless otherwise provided by the Board and be practicing within a reasonable distance of Respondent's practice. The Board may also reject any proposed monitor for good cause shown.

### III. Mechanism For Approval Of Monitor:

1. **Temporary Approval** - The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's monitor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor at the time this Settlement Agreement is considered by the Board. **Once a Final Order adopting the Settlement Agreement is filed, Respondent shall not practice medicine without an approved monitor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

2. **Formal Approval** - Respondent shall have the monitor with Respondent at Respondent's first probation appearance before the Probation Committee. Prior to the consideration of the monitor by the Probation Committee, Respondent shall provide to the monitor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vita and a description of current practice from the proposed monitor to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent's monitor shall also appear before the Probation Committee at such other times as directed by the Probation Committee. It shall be Respondent's responsibility to ensure the appearance of the monitor as directed. Failure of the monitor to appear as

directed shall constitute a violation of the terms of this Settlement Agreement and shall subject Respondent to disciplinary action.

**3. Change In Monitor** - In the event that Respondent's monitor is unable or unwilling to fulfill the responsibilities of a monitor as described herein, Respondent shall immediately advise the Probation Committee of this fact. Respondent shall immediately submit to the Chairman of the Probation Committee the name of a temporary monitor for consideration. Respondent may continue to practice, for no more than thirty (30) days without an approved monitor, pending approval of this temporary monitor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor by the Probation Committee. Respondent shall only practice under the auspices of the temporary monitor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the issue of the Probation Committee's approval of Respondent's new monitor shall be addressed.

**iv. Responsibilities Of The Monitor** - The monitor Shall:

1. Review twenty-five (25) percent of Respondent's active patient records at least once every quarter for the purpose of ascertaining whether Respondent is (1) maintaining legible medical records which justify the course of treatment; (2) following the standards adopted by the Board for the use of controlled substances for pain control; and (3) prescribing appropriate quantities and doses of controlled substances to patients. The monitor shall go to Respondent's office once

every quarter and shall review Respondent's calendar or patient log and shall select the records to be reviewed.

2. Submit reports on a quarterly basis, in affidavit form, which shall include:

- a. A brief statement of why Respondent is on probation;
- b. A description of Respondent's practice (type and composition);
- c. A statement addressing Respondent's compliance with the terms of probation;
- d. A brief description of the monitor's relationship with Respondent;
- e. A statement advising the Probation Committee of any problems which have arisen; and
- f. A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed.

3. Report immediately to the Board any violations by Respondent of Chapters 456 or 458, Florida Statutes, or the rules promulgated thereto.

4. Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. It shall be

Respondent's responsibility to ensure the appearance of Respondent's monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.

v. **Reports From Respondent:** Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

1. A brief statement of why Respondent is on probation;
2. A description of Respondent's practice location, type, and composition;
3. A brief statement of Respondent's compliance with the terms of probation;
4. A description of Respondent's relationship with the monitor;
5. A statement advising the Board of any problems which have arisen; and
6. A statement addressing compliance with any restrictions, limitations, or requirements imposed on Respondent.

vi. **Continuity Of Practice:**

1. **Tolling Provisions:** In the event Respondent leaves the State of Florida for a period of thirty (30) days or more or otherwise does not engage in

the active practice of medicine in the State of Florida, certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida:

a. The time period of probation shall be tolled.

vii. **Controlled Substances** - Respondent may prescribe Schedule III, Schedule IV and Schedule V controlled substances only in compliance with the limitations set forth below:

1. Respondent shall utilize sequentially numbered triplicate prescriptions;
2. Respondent shall provide one copy of each prescription to the monitor within one month after issuing said prescription;
3. Respondent shall provide one copy of each prescription to the Department's Investigator within one month after issuing said prescription; and
4. Respondent shall maintain one copy of each prescription in the patient's medical records. This copy may be a Xerox copy.
5. Respondent may prescribe the medication Suboxone, in compliance with the limitations set forth above, for purposes of practicing addiction medicine.



viii. **Relinquishment Of DEA License** - Respondent shall relinquish Respondent's Schedule II Controlled Substance registration with the Drug Enforcement Administration ("DEA") for a period of at least one (1) year and thereafter until such time as Respondent can demonstrate Respondent's ability to practice medicine with skill and safety to patients absent this condition or term of probation. At that time, Respondent's prescribing of Schedule II controlled substances may be subject to certain conditions and limitations to be specified by the Board at that time.

ix. **Obligations/Requirements Of Probation:** During the Probation Period, Respondent shall comply with the following obligations and requirements:

1. **Probation Committee Meetings:** Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time, and place of the Committee meeting at which Respondent's appearance is required. Failure of Respondent to appear as requested or directed or failure of Respondent to comply with any of the terms of this Settlement Agreement shall be considered a violation of the terms of this Settlement Agreement, and shall subject Respondent to disciplinary action.

14. Upon the Board's acceptance of this Settlement Agreement, the Department will enter an order vacating the Order of Emergency Suspension of Respondent's license to practice medicine in the State of Florida.

**STANDARD PROVISIONS**

15. **Appearance:** Respondent is required to appear before the Board at the meeting of the Board where this Settlement Agreement is considered.

16. **No force or effect until final order:** It is expressly understood that this Settlement Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order Incorporating the terms of this Settlement Agreement.

17. **Addresses:** Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

18. **Future Conduct:** In the future, Respondent shall not violate Chapter 456, 458, or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this Settlement Agreement, Respondent shall read Chapters 456, 458, and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

19. **Violation of terms considered:** It is expressly understood that a violation of the terms of this Settlement Agreement shall be considered a violation

of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

20. **Purpose of Agreement:** Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Settlement Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Settlement Agreement. Respondent agrees to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

21. **No preclusion of additional proceedings:** Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.


22. **Waiver of attorney's fees and costs:** Upon the Board's adoption of this Settlement Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs.

resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

23. **Waiver of further procedural steps:** Upon the Board's adoption of this Settlement Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Settlement Agreement and the Final Order of the Board incorporating said Settlement Agreement.

*Remainder of this page intentionally left blank.*

SIGNED this 12 day of October, 2012.

  
Basim Ibrahim Elhabashy, M.D.  
DOH Case Number 2011-17168

STATE OF FLORIDA

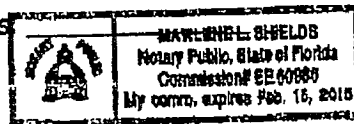
COUNTY OF Palm Beach

Before me personally appeared Basim Ibrahim Elhabashy, whose identity is known to me by FL/HL (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed by Basim Ibrahim Elhabashy before me this 12<sup>th</sup> day of October, 2012.

  
NOTARY PUBLIC (sign and print or stamp)

My Commission Expires



APPROVED this 12th day of October, 2012.

JOHN H. ARMSTRONG, MD  
State Surgeon General and Secretary of Health  
Florida Department of Health

A handwritten signature in black ink, appearing to read 'Alicia E. Adams', written over a horizontal line.

BY: Alicia E. Adams, Esq.  
Assistant General Counsel  
Department of Health,  
Prosecution Services Unit

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO. 2011-17168**

**BASIM IBRAHIM ELHABASHY, M.D.,**

**RESPONDENT.**

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**ADMINISTRATIVE COMPLAINT**

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against the Respondent, Basim Ibrahim Elhabashy, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 94356.

3. Respondent's address of record is 2230 West Atlantic Avenue, Delray Beach, Florida, 33445.

4. At all times relevant to this Complaint, Dr. Elhabashy practiced medicine at Peace of Mind Lab and Pain Clinic, a pain management clinic located in Delray Beach, Florida (the "Clinic").

5. While practicing at the Clinic, Dr. Elhabashy treated multiple patients with extremely high doses of controlled substances without medical justification for doing so.

6. In October 2011, the Department commenced an investigation of Dr. Elhabashy based upon information received from the Palm Beach County Sheriff's Department indicating that Dr. Elhabashy may have been inappropriately prescribing controlled substances.

7. As part of its investigation, the Department obtained patient records for five separate patients (hereafter identified as "RW," "TB," "SG," "PB," and "PH") treated by Dr. Elhabashy at the Clinic. In treating these patients, Dr. Elhabashy prescribed: Roxicodone, Oxycontin, Percocet, Dilaudid, Xanax, Flexeril, Mobic, Motrin, Amoxicillin, Azithromycin, Keflex and Morphine.

8. Roxicodone is a brand name for Oxycodone. Roxicodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida



Statutes (2011), Roxicodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of Roxicodone may lead to severe psychological or physical dependence. Roxicodone is an opioid. Opioid, or opiate, drugs have similar actions as the drug opium and are typically prescribed to treat pain. Opioid drugs are synthetically manufactured, while opiate drugs are naturally occurring, but the terms opioid and opiate are often used interchangeably. Opioid drugs are addictive and subject to abuse.

9. Percocet is the brand name for a drug that contains oxycodone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, Percocet is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States.

10. Oxycontin is the brand name for a drug that contains oxycodone hydrochloride and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, Oxycontin is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States.

11. Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, Dilaudid is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of Dilaudid may lead to severe psychological or physical dependence. Dilaudid is an opioid.

12. Xanax is the brand name of alprazolam. Xanax is used to treat anxiety disorders, panic disorders, and anxiety caused by depression. According to Section 893.03(4), Florida Statutes (2011), Xanax is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of Xanax may lead to limited physical or psychological dependence relative to the substances in Schedule III.

13. Flexeril is the brand name for cyclobenzaprine. Flexeril is a muscle relaxant used to treat pain from skeletal muscle conditions or injury.

14. Mobic is the brand name of meloxicam. Mobic is a nonsteroidal anti-inflammatory drug (NSAID) commonly used to treat pain and inflammation.

15. Motrin is a brand name of ibuprofen. Motrin is a nonsteroidal anti-inflammatory drug (NSAID) commonly used to reduce fever and treat pain or inflammation.

16. Amoxicillin is a penicillin antibiotic. Amoxicillin is used to treat infections caused by bacteria.

17. Azithromycin is an antibiotic used to treat infections caused by bacteria.

18. Keflex is a brand name for cephalosporin. Cephalosporin is an antibiotic used to treat infections caused by bacteria.

19. Morphine is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, morphine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States.

20. According to U.S. Drug Enforcement Agency statistics, Dr. Elhabashy was the 48<sup>th</sup> largest purchaser of Oxycodone in the United States in 2010. Dr. Elhabashy purchased 283,220 units of Oxycodone in 2010; an average 776 units per day.

Facts specific to Patient RW

21. On July 28, 2010, RW, a 34 year-old white male first presented to Dr. Elhabashy. The patient record indicates that RW had previously received treatment from Dr. A.T. on June 23, 2010 at another Peace of Mind Lab and Pain Clinic located in Deerfield, Florida. The patient record, however, contains no initial evaluation notes by Dr. A.T. or Dr. Elhabashy. None of the nine "Follow Up Visit" forms completed by Dr. Elhabashy in the patient record contain a diagnosis or description of RW's chief complaint.

22. In total, RW presented to Dr. Elhabashy nine times between July 2010 and April 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of RW were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of RW's visits.

23. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to RW are set forth below.

- a. July 28, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;
- b. August 24, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Flexeril 10 mg;
- c. September 24, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 60 dosage units of Percocet 10/325 mg, and 20 dosage units of Motrin 800 mg;
- d. October 20, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 60 dosage units of Percocet 10/325 mg, and 20 dosage units of Motrin 800 mg;
- e. December 27, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 40 dosage units of Dilaudid 4 mg, 10 dosage units of Motrin 800 mg, and 30 dosage units of Amoxicillin 500 mg;
- f. January 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone, 45 dosage units of Dilaudid 4 mg, 30 dosage units of Motrin 800 mg, and 5 dosage units of Azithromycin 500 mg;

- g. February 21, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Dilaudid 4 mg, 20 dosage units of Flexeril 10 mg, and 30 dosage units of Mobic 7.5 mg;
- h. March 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 45 dosage units of Dilaudid 4 mg, and 20 dosage units of Flexeril 10 mg; and
- i. April 18, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 45 dosage units of Dilaudid 4 mg, 30 dosage units of Flexeril 10 mg, 10 dosage units of Motrin 800 mg, and 30 dosage units of Keflex 500 mg.

24. Dr. Elhabashy did not include additional handwritten remarks on any of the Follow Up Visit forms for the above-referenced dates.

25. Dr. Elhabashy discharged RW on May 14, 2011. In discharging RW, Dr. Elhabashy cited the fact that the patient "Refused to get another MRI." The patient record reveals that Dr. Elhabashy treated RW for more than 8 months before prescribing a lumbar spine MRI to diagnose back pain.

26. The patient record for RW contained no confirmation of previous treatment other than a single lumbar spine Magnetic Resonance Imaging

("MRI") report dated January 29, 2008, and a medication log for the period from February 2008 through May 2008.

27. The patient records indicate the administration of only one drug screening during Dr. Elhabashy's treatment of RW. A urine drug screening report dated March 22, 2011, indicated a positive result for morphine. This drug screening occurred nearly eight months after RW first presented to Dr. Elhabashy. Although Dr. Elhabashy had not prescribed morphine to RW during this period, the patient record reflected no action or explanation concerning this discrepancy.

Facts Specific to Patient TB

28. On April 23, 2010, TB, a 30 year-old male, first presented to Dr. Elhabashy. TB complained of middle and lower back pain stemming from a fall from a building three years earlier. Dr. Elhabashy indicated a diagnosis of a herniated disc at the T10-11 level with "impingement." The patient record included lumbar spine MRI report dated May 29, 2008, a lumbar spine MRI report dated March 12, 2010, and a prescription profile from September and October 2009. At the conclusion of this visit, Dr. Elhabashy prescribed 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg.

29. In total, TB presented to Dr. Elhabashy 17 times for follow up visits between May 2010 and November 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of TB were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of TB's visits.

30. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to TB, as well as a description of any written comments included on the patient notes, if any, are set forth below:

- a. May 21, 2010 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- b. June 29, 2010 -- 60 dosage units of Xanax 2 mg and 180 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"



- c. August 9, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 45 dosage units of Percocet 10/325 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- d. September 8, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Mobic 15 mg;
- e. October 4, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated October 5, 2010. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- f. November 12, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- g. December 8, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"

- h. January 6, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;
- i. February 2, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;
- j. March 9, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;
- k. March 29, 2011 -- Dr. Elhabashy prescribed a lumbar spine MRI to diagnose back pain. There are no patient notes for this date and no indication in the patient record that TB subsequently underwent a lumbar spine MRI;
- l. April 5, 2011-- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that TB's blood pressure was elevated because "he just had a long walk for 2 miles;"

- m. May 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that follow up would be required because TB's blood pressure was still elevated;
- n. July 11, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that TB's blood pressure was "better than last month." The patient record, however, contains no follow visit notes for the previous month, June 2011;
- o. August 10, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included a handwritten note concerning TB's "rt A/C joint separation" but no mention of the fact that TB's blood pressure was 147/97 mm Hg versus 130/90 mm Hg the previous month;
- p. September 8, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;

q. October 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated October 6, 2011. Dr. Elhabashy noted "L1-5" tenderness and included a brief written observation concerning TB's muscle tone; and

r. November 5, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated November 4, 2011. Dr. Elhabashy noted "T12-L3" tenderness and included a brief written observation concerning TB's muscle tone.

31. The patient record contains one drug screening report dated November 12, 2010. That drug screening revealed a positive result for tetrahydrocannabinol (THC). There is no explanation or documentation concerning any action taken by Dr. Elhabashy concerning the positive result for THC.

32. THC is the psychoactive ingredient in marijuana, or cannabis. According to Section 893.03(1), Florida Statutes, THC is a Schedule I controlled

substance that has a high potential for abuse and has no currently accepted medical use in treatment in Florida.

Facts Specific to Patient SG

33. On May 3, 2011, SG, a 28 year-old male, first presented to Dr. Elhabashy. SG complained of lower back and left leg pain resulting from an automobile accident in 2005. The exam notes indicate a herniated disc at the L5-S1 level "encroaching on the S1 nerve." The patient record contained a lumbar spine MRI report dated September 14, 2010, and a prescription record from January 2011 through March 2011. At the conclusion of this visit, Dr. Elhabashy prescribed 30 dosage units of Xanax 2 mg, 120 dosage units of Roxicodone 30 mg, 60 dosage units of Roxicodone 15 mg, and 30 dosage units of Motrin 800 mg.

34. In total, SG presented to Dr. Elhabashy 5 times for follow up visits between July 2011 and December 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of SG were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of SG's visits.

35. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to SG, as well as a description of any written comments included on the patient notes, if any, are set forth below:

- a. July 15, 2011 -- 30 dosage units of Xanax 2 mg, 120 dosage units of Roxycodone 30 mg, 60 dosage units of Roxycodone 15 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that SG had left town due to his mother's death;
- b. September 5, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included handwritten notes referencing his instructions for SG to monitor his blood pressure;
- c. October 4, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Motrin 800 mg;
- d. November 2, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that he would continue to follow up on SG's blood pressure; and

- e. December 3, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy again noted that he would continue to follow up on SG's blood pressure.

36. The patient record contains two drug screening reports for the period during which Dr. Elhabashy treated SG dated May 3, 2011, and July 15, 2011. Each report indicated a negative result for benzodiazepines. Despite SG's history of being prescribed Xanax, the patient record shows no explanation or action by Dr. Elhabashy to follow up on SG's compliance.

Facts Specific to PB

37. On April 26, 2011, PB, a 34 year-old female, first presented to Dr. Elhabashy. PB complained of lower back and leg pain resulting from an automobile accident in 2009. The exam notes indicate a herniated disc at the L4-L5 level. The patient record contained a lumbar spine MRI report dated January 6, 2011, and a prescription record from February and March 2011. At the conclusion of this visit, Dr. Elhabashy prescribed 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Flexeril 10 mg, and 30 dosage units of Mobic 7.5 mg.

38. In total, PB presented to Dr. Elhabashy four (4) times for follow up visits between May 2011 and August 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of PB were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of PB's visits.

39. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to PB, as well as a description of any written comments included on the patient notes, if any, are set forth below:

- a. May 25, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg;
- b. June 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg;
- c. July 20, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg; and
- d. August 19, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg.



40. The patient record contains two drug screening reports for the period during which Dr. Elhabashy treated PB dated April 26, 2011, and June 22, 2011. Each report indicated a negative result for benzodiazepines. The June 22, 2011, report indicated a positive result for morphine. Despite the fact that these results were discordant with PB's prescription history, the patient record shows no explanation or action by Dr. Elhabashy to follow up on PB's compliance.

Facts Specific to Patient PH

41. On June 26, 2008, PH, a 58 year-old female, first presented to Dr. Elhabashy. PH complained of lower back, neck, shoulder, and arm pain resulting from a work related accident in 2001. The exam notes indicated an unspecified cervical disc disorder with an additional handwritten notation indicating degenerative disc disease, spondylosis, and neural foraminal narrowing at the C3 through C6 levels. The patient record contained a cervical spine MRI report from May 2001, a normal thoracic spine MRI report from May 2001, a copy of a neurosurgery consult from January 2002, a cervical spine plain film report from June 22, 2008, a bone scan report from October 2009, and prescription records from April and May 2008. At the conclusion of this visit, Dr. Elhabashy

prescribed 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

42. In total, PH presented to Dr. Elhabashy 40 times for follow up visits between July 2008 and November 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of PH were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of PH's visits.

43. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to PH, as well as a description of any written comments included on the patient notes, if any, are set forth below:

- a. July 25, 2008 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "good pain control;"
- b. August 22, 2008 -- 60 dosage units of Xanax 2 mg, 220 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

Dr. Elhabashy's handwritten remarks consisted only of "pain score 4-5;"

- c. September 19, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.  
Dr. Elhabashy's handwritten remarks consisted only of "doing fine;"
- d. October 17, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.  
Dr. Elhabashy's handwritten remarks consisted only of "doing ok;"
- e. November 14, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.  
Dr. Elhabashy's handwritten remarks consisted only of "doing ok;"
- f. December 12, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.  
Dr. Elhabashy's handwritten remarks consisted only of "doing ok;"
- g. January 9, 2009 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing ok;"

- h. February 6, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- i. March 6, 2009 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 60 dosage units of Percocet 10/325 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- j. March 17, 2009 -- 100 dosage units of Roxicodone 15 mg and 100 dosage units of Oxycontin 40 mg. The patient record contains no documentation of a follow up visit on March 17, 2009;
- k. April 7, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok" and "pt quite" [sic] in reference to smoking;
- l. May 2, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- m. May 29, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"

- n. June 25, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- o. July 23, 2009 -- 300 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- p. August 19, 2009 -- 60 dosage units of Xanax 2 mg and 220 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- q. September 16, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- r. October 13, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- s. November 10, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"

- t. December 8, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- u. January 5, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- v. February 2, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- w. February 27, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- x. March 27, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- y. April 24, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"

- z. May 22, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- aa. June 21, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- bb. July 20, 2010 -- 60 dosage units of Xanax 2 mg and 180 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- cc. October 7, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok;"
- dd. November 4, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg;
- ee. December 3, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg;
- ff. January 7, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg;

- gg. February 7, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg;
- hh. March 8, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg;
- ii. April 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy also prescribed a cervical spine MRI to diagnose neck pain. There is no indication in the patient record that PH subsequently underwent a cervical spine MRI;
- jj. May 23, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy also prescribed a lumbar spine MRI to diagnose back pain. There is no indication in the patient record that PH subsequently underwent a lumbar spine MRI;
- kk. June 20, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and



30 dosage units of Motrin 800 mg. Dr. Elhabashy noted "mild L4-5" tenderness and included a brief written observation concerning PH's muscle tone;

- ll. July 19, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included a brief written observation concerning PH's muscle tone;
- mm. August 16, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, Dr. Elhabashy noted "mild L1-2" tenderness and included a brief written observation concerning PH's muscle tone;
- nn. October 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted "mild L1-5" tenderness and included a brief written observation concerning PH's muscle tone; and
- oo. November 2, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted "mild

L1-3" tenderness and included a brief written observation concerning PH's muscle tone.

44. The patient record contains no drug screening reports for PH.

COUNT ONE

45. Petitioner realleges and incorporates Paragraphs one (1) through forty-four (44), as if fully set forth herein.

46. Section 458.331(1)(t)1., Florida Statutes (2011), subjects a physician to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes, and shall give great weight to the provisions of Section 766.102, Florida Statutes.

47. "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2010-2011), as "the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure." Section 456.50(1)(e), Florida Statutes (2010-2011), provides that the "level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care that is specified in Section 766.102, Florida Statutes, as follows:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as

acceptable and appropriate by reasonably prudent similar health care providers.

48. Respondent failed to meet the prevailing standard of care in one or more of the following ways:

a. By prescribing excessive or inappropriate quantities and doses of controlled substances to Patients RW, TB, SG, PB and/or PH;

b. By prescribing excessive or inappropriate quantities of controlled substances to Patients RW, TB, SG, PB and/or PH, without justification; and/or

c. By prescribing excessive or inappropriate quantities and doses of controlled substances to Patients RW, TB, SG, PB and/or PH, without performing an adequate evaluation.

49. Based on the foregoing, Respondent has violated Section 458.331(1)(t)1., Florida Statutes (2011), by committing medical malpractice.

COUNT TWO

50. Petitioner realleges and incorporates Paragraphs one (1) through forty-four (44), as if fully set forth herein.

51. Section 458.331(1)(q), Florida Statutes (2011), allows the Board of Medicine to discipline a physician for prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled

substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

52. Respondent violated Section 458.331(1)(q), Florida Statutes (2011), by prescribing excessive or inappropriate quantities and doses of controlled substances to Patients RW, TB, SG, PB and/or PH.

53. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes (2011), by prescribing excessive or inappropriate quantities and doses of controlled substances.

### COUNT THREE

54. Petitioner realleges and incorporates Paragraphs one (1) through forty-four (44), as if fully set forth herein.

55. Section 458.331(1)(nn), Florida Statutes (2011), allows the Board to discipline a physician for violating any provision of Chapters 456 or 458, Florida Statutes (2011), or any rules adopted pursuant thereto.

56. Rule 64B8-9.013, Florida Administrative Code, sets forth the standards for the use of controlled substances for the treatment of pain, in part, as follows:

(3) Standards. The Board has adopted the following standards for the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

\* \* \*

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued

treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The medical history and physical examination, including history of drug abuse or dependence, as appropriate;
2. Diagnostic, therapeutic, and laboratory results;
3. Evaluations and consultations;
4. Treatment objectives;
5. Discussion of risks and benefits;
6. Treatments;
7. Medications (including date, type, dosage, and quantity prescribed);
8. Instructions and agreements; and
9. Periodic reviews. Records must remain current and be maintained in an accessible manner and readily available for review.

Records must remain current and be maintained in an accessible manner and readily available for review.

\* \* \*

57. Respondent violated Section 458.331(1)(nn), Florida Statutes (2011), by violating Rule 64B8-9.013, Florida Administrative Code, in one or more of the following manners:

- a. Failing to obtain complete medical histories for Patients RW, TB, SG, PB and/or PH;
- b. Failing to conduct adequate physical examinations or meaningful medical evaluations of Patients RW, TB, SG, PB and/or PH;
- c. Failing to set forth an adequate treatment plan for Patients RW, TB, SG, PB and/or PH;
- d. Failing to refer Patients RW, TB, SG, PB and/or PH to evaluations or consultations with specialists or other treatment providers;
- e. Failing to perform a periodic review of the treatment of Patients RW, TB, SG, PB and/or PH; and or
- f. Failing to adequately monitor Patients RW, TB, SG, PB and/or PH for diversion or substance abuse.

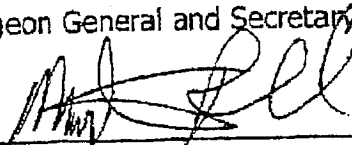
58. Based on the foregoing, Respondent has violated Section 458.331(1)(nn), Florida Statutes (2011), by violating Rule 64B8-9.013, Florida Administrative Code.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand,

placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 25<sup>th</sup> day of May, 2012.

JOHN H. ARMSTRONG, MD  
Surgeon General and Secretary of Health



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CLERK Angel Sanders  
DATE MAY 29 2012

MMR/tgc

PCP: May 25, 2012  
PCP Members: Miguel, Stringer and Levine



**BASIM IBRAHIM ELHABASHY, M.D.**

**Case No. 2011-17168**

**NOTICE OF RIGHTS**

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

**NOTICE REGARDING ASSESSMENT OF COSTS**

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.